

REMARKS

Claims 1-3 and 5-15 are all of the pending claims, with claim 1 being the sole independent claim. By virtue of this Amendment, Applicants cancel claim 4 without prejudice or disclaimer.

I. Specification Objection:

The Examiner objects to the specification because it allegedly lacks the proper sub-headings. Applicants respectfully disagree. This is because the March 23, 2001 Preliminary Amendment implemented (among other things) proper sub-headings in the specification. Applicants respectfully request the Examiner to reconsider and withdraw the raised specification objections.

II. Claim Rejection on Prior Art Ground:

The Examiner rejects claims 1-16 under 35 USC §103(a) as being obvious over US 5,259,373 to Gruenke et al. ("Gruenke") in view of US 6,142,952 to Behbehani et al. ("Behbehani") and US 5,503,146 to Froehlich et al. ("Froehlich"). Applicants respectfully traverse this rejection in view of the following remarks.

Independent claim 1 recites (among other things) that the two different pressure levels of the respirator device "are higher than the environment." Example, non-limiting embodiments of this feature are discussed throughout the instant specification. At least the "higher pressure" feature (as recited in claim 1), in combination with the other features recited in claim 1, is not taught or suggested by the prior art relied upon by the Examiner.

The Examiner relies upon the primary reference to Gruenke to teach most of the features of the present invention, inclusive of the "at least two different pressure levels" of the respirator device. The Examiner cites col. 6, lines 30-34 of the reference for support. This rejection position is not convincing for the following reasons.

Applicants agree with the Examiner that Gruenke's device is controlled to increase the gas pressure just prior to the patient's inhalation, and to subsequently lower the pressure for ease of exhalation. However, according to Gruenke's straightforward disclosure, the set point pressure presented to the nasal airway (after completion of inhalation) is reduced so that

exhalation occurs against a zero pressure level relative to ambient.¹ Certainly then, Gruenke is not pertinent to two different pressure levels being higher than the air pressure of the environment, as recited in independent claim 1. Accordingly, even if combined in the manner suggested by the Examiner, the prior art would still not meet each and every feature of the invention defined by claim 1.

CONCLUSION

Applicants earnestly solicit reconsideration and allowance of all of the pending claims.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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¹ Gruenke, col. 6, lines 55-58.